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April 30, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D. C. 20554

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Federal Communications Commission
Office of Secretary

Re: Ex Parte Correspondence - CC Docket 96-262 et. al.
Access Charge Reform

Dear Mr. Caton:

This letter expresses AT&T's concerns regarding the adoption of a "market-based" approach to access reform. As described below, the Commission has recognized that one of the most important preconditions to a market-based approach is that all unbundled network elements ("UNEs") must be generally available to competitors. Unfortunately, AT&T's experience to date is that all UNEs are not readily available, despite the clear direction in the Commission's earlier orders in the Local Competition proceeding.

In particular, incumbent LECs ("ILECs") generally have not complied with the Commission's orders regarding the availability of Operations Support Systems (OSSs), which are necessary to order and obtain UNEs. In addition, it appears that many incumbents are attempting to impose significant and unjustified costs on CLECs in connection with their provision of OSSs. Further, some LECs have raised meritless arguments in attempting to block CLECs from purchasing shared or common transport ("common transport") as an unbundled element. If common transport is not made available to CLECs as an unbundled element at economically efficient prices, they will effectively be prevented from purchasing unbundled switching and the UNE platform. All of these conditions undermine the Commission's rationale for a market-based approach to access reform, and all must be rectified before such an approach could achieve the Commission's objective to drive access prices down to their economically efficient cost.

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List A B C D E

Access to OSSs

Nondiscriminatory CLEC access to incumbents' OSSs is critical to market-based access reform. The Commission has repeatedly recognized that access reform is a part of the "competition trilogy" of Section 251, Universal Service Reform and Access Reform (see First Report and Order, CC Docket 96-98, FCC 96-325, ¶¶ 6-9). The Commission specifically recognized the interrelationship between Section 251 and access reform in its NPRM here, when it stated "[w]e expect that availability of unbundled elements at TELRIC prices as a substitute for access charges will ultimately require the LEC to set its charges in an economically efficient manner" (NPRM, ¶ 170), and that under a market-based approach to access reform "we would rely on potential and actual competition from new facilities-based providers and entrants purchasing unbundled elements to drive prices for interstate access services to economic cost" (id., ¶ 14, emphasis added).¹

If the Commission's expectations are ever to be realized, however, CLECs must be able to obtain unbundled network elements from incumbents in an efficient and cost effective manner. The Commission has recognized that this requires incumbents to provide CLECs with nondiscriminatory access to their operational support systems, because

"[m]uch of the information in these systems is critical to the ability of other carriers to compete with incumbent LECs using unbundled network elements. . . [P]roviding nondiscriminatory access to these support system functions, which would include all information such systems contain, is vital to creating opportunities for meaningful competition."

CLECs' experience with incumbents' OSSs has to date been challenging at best. In AT&T's experience, no incumbent has yet complied -- or is close to complying -- with the Commission's requirement to provide parity access to electronic OSSs by January 1, 1997,² indicating that incumbents may not have sufficient incentives to provide CLECs with the OSS access they need. This is especially true for non-BOC incumbents such as GTE, who are already actively competing in the in-region interLATA marketplace and have no incentive at all to facilitate their rivals' ability to buy unbundled elements.

¹ **See also id., ¶ 15 (to qualify for the first phase of market-based access deregulation "an incumbent LEC would have to show that its local market has been opened to competition and potential rivals are enter through any of the three avenues mandated by the 1996 Act -- interconnection, unbundled network elements and resale.")**

² **Second Order on Reconsideration, CC Docket No. 96-98, FCC 96-476, ¶ 11.**

Market-based access reform, however, depends directly on CLECs' ability to purchase such elements. Therefore, if the Commission adopts a market-based approach to access reform, it should place even greater urgency on incumbents' duty to provide nondiscriminatory OSS access.

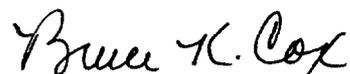
Availability of Shared/Common Transport

In addition, some incumbents have sought to deny CLECs access to the shared or common transport network element. All of those carriers' justifications for denying CLECs nondiscriminatory and just and reasonable access to such facilities conflict with the clear terms of the Commission's First Report and Order and are directly inconsistent with the terms of the 1996 Act. Equally important, if incumbents were allowed to deny CLECs access to common transport at economically efficient prices, the CLECs would be unable to compete against the incumbents through the purchase of unbundled local switching or the UNE platform. Contrary to the express terms of the 1996 Act, this would limit broad-scale local competition to the use of resold services. In addition, it would fatally undermine the already questionable underpinnings of a market-based approach to access reform.

AT&T thus recommends that the Commission's order provide that if incumbents do not provide shared or common transport immediately and the required OSS access within a reasonable time period of the Commission's order in this proceeding, the Commission will impose prescriptive reductions on their interstate access charges, which will escalate by some percentage on a quarterly basis until the required access is available.

Two (2) copies of this Notice are being submitted to the Secretary of the FCC, in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,



cc: Ms. Regina Keeney
Mr. A. Richard Metzger
Mr. James D. Schlichting